

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAND MICHAEL EMINETH,

Defendant.

CR 18-90-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Rand Michael Emineth (Emineth) has been accused of violating the conditions of his supervised release. Emineth admitted the alleged violations. Emineth's supervised release should not be revoked. Emineth should not be placed in custody. Emineth should serve the remainder of his current term of supervised release.

II. Status

Emineth pleaded guilty to Possession of Stolen Explosives on February 19, 2019. (Doc. 97). The Court sentenced Emineth to 18 months of custody, followed by 3 years of supervised release. (Doc. 134). Emineth's current term of supervised release began on June 1, 2020. (Doc. 197 at 1).

Petition

The United States Probation Office filed an Amended Petition on January 4, 2021, requesting that the Court revoke Emineth's supervised release. (Doc. 197). The Amended Petition alleged that Emineth had violated the conditions of his supervised release by using methamphetamine on two separate occasions.

Initial appearance

Emineth appeared before the undersigned for his initial appearance on the Amended Petition on March 16, 2021. Emineth was represented by counsel. Emineth stated that he had read the petition and that he understood the allegations. Emineth waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on March 16, 2021. Emineth admitted that he had violated the conditions of his supervised release by using methamphetamine on two separate occasions.

Emineth's violations are Grade C violations. Emineth's criminal history category is V. Emineth's underlying offense is a Class C felony. Emineth could be incarcerated for up to 24 months. Emineth could be ordered to remain on

supervised release for up to 30 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 7 to 13 months.

III. Analysis

Emineth's supervised release should not be revoked. Emineth should not be placed in custody. Emineth should serve the remainder of his current term of supervised release.

IV. Conclusion

The Court informed Emineth that the above sentence would be recommended to United States District Judge Brian Morris. The Court also informed Emineth of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Emineth that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Emineth stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Rand Michael Emineth violated the conditions of his supervised release by using methamphetamine on two separate occasions.

The Court **RECOMMENDS:**

The District Court should not revoke Emineth's supervised release. Emineth should not be placed in custody. Emineth should serve the remainder of his current term of supervised release.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 17th day of March, 2021.


John Johnston
United States Magistrate Judge